

REMARKS

Claims 1-53 are pending in the application, and were each rejected. The Examiner is thanked for her office action.

With regard to the “2D” found in claim 22 of the previous response, the Examiner is correct that this was not an intentional amendment and should not have been entered. Because the undersigned did not prepare the original application, the claims were scanned in for the previous response, and the line number “20” from the originally-filed application was apparently mis-recognized in the OCR process as “2D”. The undersigned regrets the typographic error.

Please note that, for ease of reference, all references to the instant application use the paragraph numbers as shown in the published version of the application (US 2003/0156715).

CLAIM REJECTIONS -- 35 U.S.C. §101

All claims were rejected under 35 U.S.C. 101, alleging that the claimed invention is directed to non-statutory subject matter. This rejection is traversed.

The arguments regarding the non-statutory subject matter of the previous response are hereby incorporated by reference, and apply to all claims.

The Examiner’s rejection under §101 is unfounded, and completely without basis in statutory or common law. The Examiner is respectfully referred to BPAI precedential opinion *Ex Parte Lundgren*, Appeal No. 2003-2088, decided October 2005.

Therefore, the non-statutory subject matter rejections are traversed.

CLAIM REJECTIONS -- 35 U.S.C. §112

Claims 1-53 were rejected under 36 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention. All independent claims contain the phrase “fixed length segment” followed by using “a portion of the fixed length segment” however, there is no indication how this portion is selected and no further description of a fixed length segment.

Those of skill in the art will understand the plain meaning of these words. A fixed length segment is a segment having a fixed length, as opposed to one having a variable length, and is described, for example, in paragraphs 0026-0028. A portion is simply less than a whole, and paragraph 0034 describes that any suitable selection of bits may be used to form a portion of the session count.

The Examiner’s confusion over the meaning of the claims is therefore not understood, but the Examiner is requested to telephone the undersigned to discuss the matter if she still finds the claims indefinite.

Claims 4, 17, 25-32, 36, and 44 were rejected as indefinite under 35 U.S.C. 112, second paragraph, for including the trademark/trade name “RC4”. As the Examiner notes, MPEP 706.03(d) indicates that “Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph” (emphasis added). The use of the term “RC4 operation” in these claims is not used to describe a particular material or product, and so does not fall under this

prohibition.

The Office Action itself states that “the trademark or trade name cannot be used properly to identify any particular material or product.” As used in the application as filed, “RC4” does not refer to a particular material or product. It refers to a well-known cipher algorithm. The Office Action states that this mark is used to “identify/describe a proprietary standard for stream cipher” –RC4 is a well known, no-longer-proprietary algorithm, and is incorporated into various standards, such as 802.11.

The argument of the previous response is incorporated by reference, and re-urged.

The “opentopia” description attached by the Examiner to the Office Action clearly indicates that the RC4 cipher is well known to those of skill in the art, and even includes pseudocode for implementing the algorithm. Even the Medvinsky reference, cited by the Examiner, indicates that RC4 is simply a well-known cipher. If the Examiner believes a term such as “ARCFOUR” would be useful, she is requested to telephone the undersigned to discuss the matter.

For the Examiner’s convenient reference, a copy of the relevant pages of Schneier’s Applied Cryptography (Bruce Schneier, 2nd Edition, 1996) are attached, describing the very well known (even as of 10 years ago) RC4 algorithm.

All § 112 rejections are traversed.

CLAIM REJECTIONS -- 35 U.S.C. §102

Claim 1-8, 14-27, 33-39, 41-51 and 53 were rejected under 35 USC § 102(e) as being anticipated by Medvinsky (U.S. Application No. 2002/0094081, hereinafter Medvinsky).

Each of the independent claims includes reference to a “session count”, at least a portion of which is used in the encryption/decryption process, as described in the specification. [0033] describes that

In the exemplary embodiment, the session counter 324 is a packet counter and each session count 331 is a packet count identifying the packet number of each encrypted data packet 312. Examples of other suitable session counts 331 include a fixed number of packet counts. A session count 331, for example, may correspond to ten data packets 312.

Medvinsky does not teach the literal term “session count” at all. Of course, this is not required, if Medvinsky uses another term that fits the usage of “session count” in the present application.

Medvinsky includes no such teaching. To enable encryption/decryption, Medvinsky uses a Real Time Protocol (RTP) time stamp to calculate an index into the key stream, not a session count or equivalent (Medvinsky col. 0033-0034). While the RTP time stamp does increase as time passes, nothing in Medvinsky teaches or suggests a session count or equivalent that corresponds to a packet count, as in the present application.

Medvinsky also references another counter, "Counter N", but this counter tracks CODEC changes, not numbers of packets.

As all independent claims include this feature not taught or suggested by Medvinsky, all claims are allowable over Medvinsky.

CLAIM REJECTIONS -- 35 U.S.C. §103

The Office Action states that claims 9-13, 28-32 40, and 52 were rejected under 35 U.S.C. §103(a) as being unpatentable over '252 (not further identified) in further view of Chang et al (U.S. Patent, 6,105,012). Per a telephone interview with the Examiner on 10/18/05, the undersigned believes the rejection of these claims is actually over Medvinsky in view of Staring (U.S. Application No. 2001/0007127, hereinafter Staring), where the office action uses '081 to refer to Medvinsky and '127 to refer to Staring.

As demonstrated above, Medvinsky does not teach or suggest a "session count" as used in the present application and found in each independent claim. Similarly, Staring has no such teaching or suggestion. Staring does teach "session keys", but these are not related to packet count, as in the present application, and so are not the equivalent of the claimed "session count."

All rejections are traversed.

CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

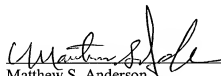
If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *manderson@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 11/10/5


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